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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/809,840	03/26/2004	Gideon Fostick	Q80048	8142
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SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			EXAMINER	
			HASHEM, LISA	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/809,840	Applicant(s) FOSTICK ET AL.
	Examiner LISA HASHEM	Art Unit 2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 10 March 2009.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-34 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-34 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date _____

5) Notice of Informal Patent Application
6) Other: _____

FINAL DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 3-10-09 have been fully considered but they are not persuasive.
2. Regarding claim 1, Applicant argues that the prior art of Natarajan in the 103(a) rejection does not disclose '...sending a cue via the voice session for initiating a data session...'. Examiner disagrees. Natarajan is the teaching reference that teaches during a voice session (i.e. voice call; section 0035, lines 4-7) between a first voice and data wireless device (Fig. 1, 140) and a second voice and data wireless device (Fig. 1, 150), a controller (Fig. 2, 220) at a first voice and data wireless device initiates a data session by sending a cue or data access request (said data access request including an option for a data access request) to a second voice and data wireless device (section 0035, lines 4-11). The voice call is switched to a data call when the data access request is granted (section 0036, lines 4-6). Thus, Natarajan provides teaching for sending a cue (i.e. a data access request) via a voice session (i.e. voice call connection).
Regarding claim 12, Applicant argues that the prior art of Jiang in view of Natarajan do not disclose '...the voice cue comprises a series of DTMF tones...'. Examiner disagrees. Claim 12 recites '...wherein said cue comprises a sequence of DTMF tones...'. Jiang discloses said cue or XML file (section 0101) comprises options: "press <number>", where <number> is a DTMF code or tone expected as a choice to the menu in the XML file. Natarajan discloses said cue or data access request comprises a selection or option made by a keypad of a user of the first device indicating a data access request should be made (section 0019; 0030, lines 25-34; 0033-0035; 0047, lines 11-17).

Regarding claim 17, Applicant argues that the prior art of Natarajan in the 103(a) rejection does not disclose ‘...the controller decodes a voice command to transfer to a data session...’. Examiner disagrees. Natarajan is the teaching reference that teaches a controller (Fig. 2, 220) of a first voice and data wireless device (Fig. 2, 200) decodes a voice command or data access request received from a second voice and data wireless device during a voice call or voice session to transfer to a data session (section 0037, lines 7-18). Thus, the selected option or data access request by the second voice and data wireless device is sent within the voice call before the voice call is switched to a data call or data session.

Regarding claim 20, Applicant argues that the prior art of Natarajan in the 103(a) rejection does not disclose ‘...issuing a data launch command via said voice session to said remote telephony device...’. Examiner disagrees. The controller (Fig. 2, 220) of a remote telephony device or a voice and data wireless device (Fig. 1, 140) sends a data access request option to a second voice and data wireless device during a voice call or within a voice session. A data access request is received from the second voice and data wireless device at the remote telephony device (Fig. 1, 140) (section 0037, lines 7-18). Thus, the selected option or data access request by the second voice and data wireless device is sent within the voice call before the voice call is switched to a data call or data session.

Thus, the prior art teaches the claimed invention.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. Appl. Publ. No. 2002/0057678 by Jiang et al, hereinafter Jiang in view of U.S. Pat. Appl. Publ. No. 2004/0171370 by Natarajan.

Regarding claim 1, Jiang an discloses apparatus (Fig. 6; Fig. 7) for initiating a data session at a remote communication unit (i.e. wireless device; section 0068; Fig. 6, 606; Fig. 7, 706) currently connected via a voice session (section 0083; 0087-0088; 0095), the apparatus comprising:

a cue unit (Fig. 6, 608; Fig. 7, 718) for sending outside of said voice session to said remote unit a cue decodable as an instruction (i.e. SMS; email; text message; XML file) to start a data session (section 0086-0088; 0095-0096; 0101), and an address unit (Fig. 6, 610; Fig. 7, 702) for providing data session address information to said data session (section 0086-0088; 0096; 0101).

Jiang does not disclose sending via said voice session a cue.

Natarajan discloses an apparatus (i.e. first voice and data wireless device; Fig. 1, 140) for initiating a data session at a remote communication unit (i.e. second voice and data wireless device) (section 0033-0035) currently connected via a voice session (i.e. voice call; section 0035, lines 4-7), the apparatus comprising:

a cue unit (Fig. 2, 220; i.e. controller) for sending via said voice session to said remote unit a cue (section 0035, lines 4-11) decodable as an instruction (i.e. data access request) to start a data session (section 0035), and a unit (Fig. 2, 220) for providing data session information (i.e. a data query) to said data session (section 0036).

Thus, the selected option or data access request by the first voice and data wireless device is sent within the voice call before the voice call is switched to a data call or data session.

Again, Jiang discloses the claimed apparatus except Jiang sends a cue outside said voice session rather than via said voice session. However, the claimed feature of sending a cue via said voice session was old and well known in the art. Natarajan clearly teaches such concept.

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus of Jiang to include sending a cue via an existing voice session as taught by Natarajan. In other words, one of ordinary skill in the art would have been lead to make such a modification of Jiang to send a cue via an existing voice session, such as the first voice and data wireless device of Natarajan, to the apparatus of Jiang so a cue can be sent across an existing voice session to initiate a data session without using a different communication channel to send the cue.

Regarding claim 2, apparatus according to claim 1, wherein Jiang discloses said address unit is configured to send said data session address information to said remote communication unit (section 0086-0088; 0096; 0101).

Regarding claim 3, apparatus according to claim 2, wherein Jiang discloses said address unit is further configured to send session identification information together with said data session address information to said remote communication unit (section 0088).

Regarding claim 4, apparatus according to claim 2, wherein Jiang in view of Natarajan discloses said address unit is associated with said cue unit and is configured to send said data session address information along with said cue within said voice session (Jiang: section 0086-0088; 0095-0096; 0101; Natarajan: section 0035).

Regarding claim 5, apparatus according to claim 3, wherein Jiang in view of Natarajan discloses said address unit is associated with said cue unit and is configured to send said data session address information and said session identification information along with said cue within said voice session (Jiang: section 0088; Natarajan: section 0035).

Regarding claim 6, apparatus according to claim 1, wherein Jiang discloses said address unit is configured to enter said data session address information along with caller identification information in a database (section 0086).

Regarding claim 7, apparatus according to claim 6, wherein Jiang discloses said cue is decodable at said remote communication apparatus to access said database, said caller identification information allowing said data session address information to be retrieved from said database to define said data session (section 0086).

Regarding claim 8, apparatus according to claim 1, Jiang discloses further configured to issue a command from said data session to restart said voice session (section 0081).

Regarding claim 9, apparatus according to claim 8, wherein Jiang discloses said command is a dialing action initiator (section 0081; 0086).

Regarding claim 10, apparatus according to claim 1, wherein Jiang discloses said data session comprises a menu-based user interface (section 0088).

Regarding claim 11, apparatus according to claim 1, wherein Jiang discloses said data session comprises a graphically-based user interface (section 0088).

Regarding claim 12, apparatus according to claim 1, wherein Jiang in view of Natarajan discloses said cue comprises a sequence of DTMF tones (Jiang: section 0093-0094; 0101; Natarajan: section 0019; 0030, lines 25-34; 0033-0035; 0047, lines 11-17; i.e. user input from keypad in voice session to initiate a data session).

Regarding claim 13, apparatus according to claim 1, wherein Jiang discloses said cue unit is operable to send said cue to all connecting remote communication devices (i.e. wireless devices; end users) (section 0088; section 0093).

Regarding claim 14, apparatus according to claim 1, wherein Jiang discloses said cue unit is associated with a database of communication device identity data to send said cue only to a subset of remote communication devices indicated by said database (section 0086; 0087).

Regarding claim 15, apparatus according to claim 1, wherein Jiang discloses said cue unit is configured to send said cue only if said data session is indicated as being required by said remote communication device (section 0087-0088).

Regarding claim 16, apparatus according to claim 1, wherein Jiang in view of Natarajan discloses said data session comprises one of a group of applications comprising visual directory assistance, visual shopping and visual voicemail deposit (Jiang: section 0087-0088; Natarajan: section 0035).

Regarding claim 17, Jiang discloses a client (Fig. 14; i.e. voice channel-based platform) for a smart telephony device (i.e. wireless device; section 0068; Fig. 14, 1406) capable of supporting a data session (section 0081), the client comprising:

a decoder (Fig. 14, 1402) for decoding a received command to transfer to a data session (section 0281), and a data session launcher (Fig. 14, 1404), associated with said decoder, for launching a data session at said smart telephony device in response to the received command (section 0282).

Jiang does not disclose a received voice command.

Natarajan discloses a client (Fig. 2, 220; i.e. controller) for a smart telephony device (i.e. voice and data wireless device; Fig. 2, 200) capable of supporting a data session (section 0033-0034; 0037), the client comprising:

a decoder (Fig. 2, 220) for decoding a received voice command (i.e. user input from a second voice and data wireless device in a voice call in response to a data access request option sent by the smart telephony device; received data access request during a voice call; section 0037, lines 7-18) to transfer to a data session (section 0037), and a data session launcher (Fig. 2, 220), associated with said decoder, for launching a data session at said smart telephony device in response to the received voice command (section 0037-0038).

Thus, the selected option or data access request by the second voice and data wireless device is sent within the voice call before the voice call is switched to a data call or data session.

Again, Jiang discloses the claimed client except Jiang decodes a received command rather than a received voice command. However, the claimed feature of a received voice command was old and well known in the art. Natarajan clearly teaches such concept.

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the client of Jiang to include a received voice command as taught by Natarajan. In other words, one of ordinary skill in the art would have been lead to make such a modification of Jiang to receive a voice command, such as the voice command in a voice

session of Natarajan, to the client of Jiang so a voice command can be sent across an existing voice session to initiate a data session without using a different communication channel to send the voice command.

Regarding claim 18, the client of claim 17, wherein Jiang in view of Natarajan discloses the voice command includes encoded data session address information and said decoder is configured to decode the data session address information from said command and for providing the decoded data session address information to said data session launcher (Jiang: section 0281; Natarajan: section 0037-0038).

Regarding claim 19, the client of claim 17, wherein Jiang in view of Natarajan discloses said data session launcher is configured to automatically consult a database (Fig. 14, 1410) associated with said received voice command to associate data session address information with said data session (Jiang: section 0280-0281; Natarajan: section 0037-0038).

Regarding claim 20, Jiang discloses a method of launching a data session at a remote telephony device (i.e. wireless device; section 0068; Fig. 5, 506; Fig. 7, 706) that has connected using a voice session (section 0083; 0087-0088; 0095), the method comprising: issuing a data session launch command (i.e. SMS; email; text message; XML file) outside of said voice session (section 0081; 0093-0095) to said remote telephony device (section 0083), and issuing data session address information (i.e. URL) for use in association with a data session launched in consequence of said command (section 0083; 0087-0088; 0096).

Jiang does not disclose issuing a data session launch command via said voice session.

Natarajan discloses a method of launching a data session at a remote telephony device (i.e. voice and data wireless device; Fig. 1, 140) that has connected using a voice session (section

0037), the method comprising:

issuing a data session launch command (i.e. data access request) via said voice session (i.e. receiving an option from a remote device within the voice session; section 0037, lines 7-18) to said remote telephony device (section 0037-0038), and issuing data session information (i.e. data query) for use in association with a data session launched in consequence of said command (section 0038).

Thus, the selected option or data access request by the second voice and data wireless device is sent within the voice call before the voice call is switched to a data call or data session.

Again, Jiang discloses the claimed method except Jiang issues a data session launch command outside of said voice session rather than via said voice session. However, the claimed feature of issuing a data session launch command via said voice session was old and well known in the art. Natarajan clearly teaches such concept.

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Jiang to include issuing a data session launch command via said voice session as taught by Natarajan. In other words, one of ordinary skill in the art would have been lead to make such a modification of Jiang to issue a data session launch command via an existing voice session, such as the voice and data wireless device of Natarajan, to the method of Jiang so a data session launch command can be issued across an existing voice session to initiate a data session without using a different communication channel.

Regarding claim 21, the method of claim 20, Jiang in view of Natarajan discloses further comprising sending said data session address information to said remote telephony device

together with said command as part of said voice session (Jiang: section 0083; 0096; Natarajan: section 0037-0038).

Regarding claim 22, the method of claim 21, Jiang discloses further comprising sending session identification information together with said data session address information to said remote telephony device (section 0088).

Regarding claim 23, the method of claim 20, Jiang discloses further comprising placing said data session address information in a database and indexing said data session address information with caller identification information (section 0086).

Regarding claim 24, the method of claim 23, Jiang discloses further comprising accessing said database using said caller identification information of said remote telephony device to obtain said data session address information (section 0086).

Regarding claim 25, the method of claim 24, Jiang discloses further comprising initiating a data session with said obtained data session address information (section 0086; 0087).

Regarding claim 26, the method of claim 20, wherein Jiang discloses said data session comprises a menu-based user interface (section 0088).

Regarding claim 27, the method of claim 20, wherein Jiang discloses said data session comprises a graphically-based user interface (section 0088).

Regarding claim 28, the method of claim 20, wherein Jiang discloses said data session comprises a user selection option available to a user at said remote communication unit to return said data session to a voice session (section 0081).

Regarding claim 29, the method of claim 28, wherein Jiang discloses said user selection option comprises a command for activating a dialing action at said remote communication unit (section 0081; 0086).

Regarding claim 30, the method of claim 20, wherein Jiang in view of Natarajan discloses said data session launch command is a voice cue comprising a sequence of DTMF tones (Jiang: section 0093-0094; 0101; Natarajan: section 0037-0038; i.e. user input from keypad in voice session to initiate a data session).

Regarding claim 31, the method of claim 20, Jiang discloses comprising sending said data session launch command to all connecting remote communication devices (i.e. wireless devices; end users) (section 0088; section 0093).

Regarding claim 32, the method of claim 20, Jiang discloses comprising using a database of communication device identity data to send said data session launch command only to a subset of remote communication devices indicated by said database (section 0086; 0087).

Regarding claim 33, the method of claim 20, Jiang discloses comprising sending said data session launch command only if said data session is indicated as being required by said remote communication device (section 0087-0088).

Regarding claim 34, the method of claim 20, wherein Jiang in view of Natarajan discloses said data session operates one of a group of applications comprising visual directory assistance, visual shopping and visual voicemail deposit (Jiang: section 0087-0088; Natarajan: section 0035).

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892 Form.

7. Any response to this action should be mailed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Or faxed to:

(571) 273-8300 (for formal communications intended for entry)

Or call:

(571) 272-2600 (for customer service assistance)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LISA HASHEM whose telephone number is (571)272-7542. The examiner can normally be reached on M-F 8:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-2600.

8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Lisa Hashem/
Examiner, Art Unit 2614
May 25, 2009
/Fan Tsang/
Supervisory Patent Examiner, Art Unit 2614